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should be a conviction for malpractice or an award made for malpractice, then rest assured, and they do it today that the insurance carrier will, I believe that the term is severgate, or file a claim against the award for the reimbursement because of the fact that they were not liable for the malpractice. There is a common practice involved there today. The entire issue revolves around whether or not in the event that there is not severgation that there should be double recovery. Now the other part of the amendment that we discussed provides that premiums paid for this shall be considered, it provides that the court or the arbitrator shall consider any of these awards. It does not, it does not allow for double recovery, and double recover is what drives up the cost of insurance and that is what we are trying to avoid. Bear in mind that the doctor does not pay this out of his pockets. The insurer pays it. The insurer then must raise the rate to cover the double recovery.

SENATOR R. LEWIS: The logic of it still escapes me. Because the patient, the victim, paid this insurance premium. It appears to me that were protecting the insurance carrier rather than either the doctor or the victim.

SENATOR SCHMIT: The insurance carrier and the...the insurance carrier is funded by the public, the people who buy the insurance. When there is malpractice the award will take into account the amount of damages that are allowed for medical purposes as a result of mal practice. The insurance company, the original insurer is not going to be responsible for that cost. That is what were doing in this amendment. I believe that Senator Dworak would agree with me.

PRESIDENT: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, even though I see the steam roller, and even though I see a Legislature which has been totally intimidated and brought to its knees, I know the amount of money that was spent by the medical profession in getting this bill together and doing what they did. I'm still going to say some things for the record, for my own benefit. For those that may think something of me and come up to me and look at the positions that I took on issues like this. This bill is not designed to help the public or benefit people who have to go to the hospital. If Senator Cope needs any work done on him I hope that he does it before this bill takes affect. Because they can wipe him out. When you can bury your mistakes you don't even to worry about homicide laws. This is saying that the patient is like a piece of flesh. But, if they talk about laws not to impair the obligations of contracts sometimes you ought to look at the spirit of the law and what the intent is. That is attempting to be accomplished. If a person pays premiums on a health insurance policy and then some incompetent grossly negligent indivudal who ought to be in a butcher shop and happens to work in a hospital because they are short handed, applies his trade on that person like he would on a carcass and should you be fortunate enough to recover, they are not going to let that incompetent butcher pick your bones. They are going to pick your economic bones also. There is no privity I don't believe between the patient and his insurance company as a unit and this incompetent butcher and his insurance carrier. You are bridging a gap here that I don't think ought to be bridged in